

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMANDA JOHNSON,

CASE NO. 2:23-cv-01813-LK

Plaintiff,

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

NORDSTROM et al.,

Defendants.

This matter comes before the Court on Plaintiff Amanda Johnson's Application for Court-Appointed Counsel. Dkt. No. 33. Having reviewed the application, the amended complaint, the balance of the record, and the applicable law, the Court denies Ms. Johnson's application to appoint counsel.

I. BACKGROUND

Ms. Johnson alleges that a Nordstrom employee “persecut[ed]” her based on her race when she attempted to obtain a refund for returned shoes. Dkt. No. 16 at 7–9, 11–12. She also contends that “Nordstrom has policies, plans, proposal, and blueprint in their organization to denigrate and undervalue African American according to history.” *Id.* at 11; *see also id.* at 12 (accusing

1 Nordstrom of “systemic and structural racism”). She avers that the Court has diversity jurisdiction
 2 because the amount in controversy exceeds \$4,000,000, she is a citizen of Alabama, and
 3 Nordstrom is a citizen of Washington. *Id.* at 1–2.

4 II. DISCUSSION

5 “Unlike in criminal cases that implicate the Sixth Amendment right to counsel, civil
 6 litigants who cannot afford counsel are not constitutionally guaranteed the appointment of a
 7 lawyer.” *Adir Int’l, LLC v. Starr Indem. & Liab. Co.*, 994 F.3d 1032, 1039 (9th Cir. 2021).
 8 Although the Court has discretion to “request” appointment of counsel for indigent litigants
 9 pursuant to section 1915(e)(1) in “exceptional circumstances,” *Agyeman v. Corr. Corp. of Am.*,
 10 390 F.3d 1101, 1103 (9th Cir. 2004) (first quoting 28 U.S.C. § 1915(e)(1), and then quoting
 11 *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984)), the statute is inapplicable here because
 12 Ms. Johnson is not proceeding *in forma pauperis*, *see* Nov. 29, 2023 Docket Entry. *See also*
 13 *Jackson v. Boeing Co.*, No. C21-654-MJP, 2021 WL 4168988, at *1 (W.D. Wash. Sept. 14, 2021)
 14 (“[A]s demonstrated by Plaintiff’s ability to pay the filing fee, it appears Plaintiff has some funds
 15 available to retain an attorney.”). Furthermore, Ms. Johnson did not file the required financial
 16 affidavit with her motion. Dkt. No. 33 at 1; *see also*
 17 <https://www.wawd.uscourts.gov/sites/wawd/files/NonEmpCvrLtr.pdf> (instructions for
 18 application for court-appointed counsel stating that “[i]f you have not been granted leave to
 19 proceed *in forma pauperis* in this action, complete and sign the attached Financial Affidavit”).

20 Regardless, Ms. Johnson has not shown that exceptional circumstances exist. First, the
 21 Court cannot conclude that she is likely to succeed on the merits of her claims based on the
 22 undeveloped, limited record before it. *See, e.g., Sam v. Renton Sch. Dist.*, No. C21-1363-RSM,
 23 2021 WL 4952187, at *1 (W.D. Wash. Oct. 25, 2021) (“The Court cannot conclude on this thin
 24 record whether these claims have a strong likelihood of success on the merits.”). And she has not

1 otherwise provided any compelling arguments or evidence that this case is likely to succeed on the
 2 merits. *See Ralls v. Facebook*, No. C16-0007-JLR, 2016 WL 10591399, at *2 (W.D. Wash. Apr.
 3 25, 2016). Second, this case does not present unusually complex legal or factual issues that would
 4 preclude Ms. Johnson from articulating her claims pro se. *See Agyeman*, 390 F.3d at 1103–04. Her
 5 filings demonstrate an ability to articulate her claims. *See, e.g.*, Dkt. No. 16 at 7–9, 11–12. That
 6 she might more articulately set forth the facts underlying her claim with the assistance of counsel
 7 is not the test. *Steiner v. Hammond*, No. C13-5120-RBL, 2013 WL 3777068, at *2 (W.D. Wash.
 8 July 16, 2013). Third, Ms. Johnson has made no effort to obtain counsel on her own. Dkt. No. 33
 9 at 3. Accordingly, Ms. Johnson has not shown that she is entitled to the appointment of counsel at
 10 this time.

11 III. CONCLUSION

12 For the foregoing reasons, the Court DENIES Ms. Johnson’s application to appoint
 13 counsel. Dkt. No. 33. Unless Ms. Johnson retains counsel, she is responsible for pursuing this case
 14 pro se. Materials to assist pro se litigants are available on the United States District Court for the
 15 Western District of Washington’s website, including a Pro Se Guide to Filing Your Lawsuit in
 16 Federal Court and information about the Federal Bar Association’s Legal Clinic.
 17 <https://www.wawd.uscourts.gov/representing-yourself-pro-se>. Although the Court affords some
 18 leeway to pro se litigants, they must comply with case deadlines, the Federal Rules of Civil
 19 Procedure, and the Western District of Washington’s Local Rules, which can also be found on the
 20 Western District of Washington’s website.

21 Dated this 19th day of August, 2024.

22 
 23 Lauren King
 24 United States District Judge